

REMARKS

In accordance with the foregoing, claims 35 and 46-47 have been amended. Claims 35-39, 41-42, 44, and 46-49 are pending and under consideration. This amendment is believed to place the application in condition for allowance, and entry therefore is respectfully requested. In the alternative, entry of this amendment is requested as placing the application in better condition for appeal by, at least, reducing the number of issues outstanding.

Entry of Amendment under 37 C.F.R. § 1.116

The Applicant requests entry of this Rule 116 Response because the amendment does not significantly alter the scope of the claims and places the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures (M.P.E.P.) sets forth in Section 714.12 that “any amendment that would place the case either in condition for allowance or in better form for appeal may be entered.” Moreover, Section 714.13 sets forth that “the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.” The M.P.E.P. further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

I. Rejection under 35 U.S.C. § 102

In the Office Action, at pages 2-5, claims 35-39, 41-42, 44, and 46-48 were rejected under 35 U.S.C. § 102(b) as anticipated by Sugaya (U.S. Patent No. 5,995,274).

Sugaya does not discuss or suggest:

a gain-equalizer positioned after each optical amplification medium, and equalizing the gain-characteristic of a predetermined wavelength band of the optical amplification mediums, each gain-equalizer equalizing each output light of the preceding optical amplifier medium and passing light with the predetermined wavelength band, the light of the predetermined wavelength band having flat optical power characteristics,

as recited in claim 35. In other words, the invention of claim 35 provides for optical gain equalizers that are placed after each optical amplification medium. As such, the invention of claim 35 does not require transparency of the gain equalizer to excitation (or pump) band light. Furthermore, the invention of claim 1 provides for light in a predetermined wavelength band to have flat optical power characteristics. Sugaya, as relied upon by the Examiner, discloses a plurality of combinations of optical amplifiers and attenuators. However, Sugaya does not

provide for an optical gain equalizer to be placed after an amplification medium such that light with flat optical power characteristics is passed in a predetermined wavelength band.

Therefore, Sugaya does not discuss or suggest as recited in claim 35, so that claim 35 patentably distinguishes over Sugaya. Accordingly, withdrawal of the § 102(b) rejection is respectfully requested.

Claims 36-39, 41-42, and 44 depend either directly or indirectly from claim 35, and include all the features of claim 35, plus additional patentable features that are not discussed or suggested by the reference relied upon. Therefore, claims 36-39, 41-42, and 44 patentably distinguish over the reference relied upon for at least the reasons noted above. Accordingly, withdrawal of these § 102(b) rejections is respectfully requested.

Sugaya does not discuss or suggest:

a gain-equalizer positioned after each optical amplification medium, and equalizing the gain-characteristics of the wavelength band of the optical amplification medium, each gain-equalizer equalizing each output light of the preceding optical amplifier medium and passing light with a predetermined wavelength band, the light of the predetermined wavelength band having flat optical power characteristics,

as recited in claim 46, so that claim 46 patentably distinguishes over Sugaya. Accordingly, withdrawal of the § 102(b) rejection is respectfully requested.

Sugaya does not discuss or suggest:

a plurality of optical gain-equalizers respectively positioned after each optical amplification medium equalizing each output light of the preceding optical amplification medium and outputting an output light having substantially flat power characteristics,

as recited in claim 47, so that claim 47 patentably distinguishes over Sugaya. Accordingly, withdrawal of the § 102(b) rejection is respectfully requested.

Claim 48 depends directly from claim 47, and includes all the features of claim 47, plus additional patentable features that are not discussed or suggested by the reference relied upon. Therefore, claim 48 patentably distinguishes over the references relied upon for at least the reasons noted above. Accordingly, withdrawal of the § 102(b) rejection is respectfully requested.

II. Claim 49

Since claim 49 is not subject to any objections or rejections in the current Office Action, Applicants assume that claim 49 is in a condition suitable for allowance.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

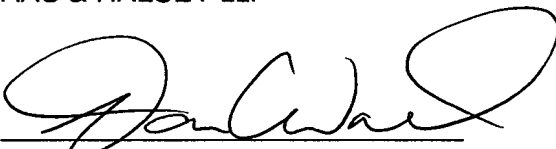
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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